

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

SHARON K. HICKS,

Plaintiff,

v.

CIVIL ACTION NO. 5:05-cv-00621

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

JUDGMENT ORDER

By Standing Order entered on July 21, 2004, and filed in this case on August 2, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation [“PF&R”]. Magistrate Judge VanDervort filed his PF&R on July 31, 2006 [Docket 13]. In that filing, the magistrate judge recommended that this Court: (1) grant Plaintiff’s Motion for Judgment on the Pleadings, (2) deny Defendant’s Motion for Judgment on the Pleadings, (3) vacate the final decision of the Commissioner, (4) remand this matter for further proceedings consistent with the PF&R pursuant to the fourth sentence of 42 U.S.C. § 405(g), and (5) dismiss this matter from the Court’s docket.

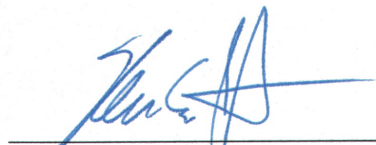
The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989);

United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due by August 17, 2006, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. Civ. P. 72(b). No objections have been filed.

The Court adopts the recommendations of Magistrate Judge VanDervort. Accordingly, the Court hereby (1) **GRANTS** Plaintiff's Motion for Judgment on the Pleadings, (2) **DENIES** Defendant's Motion for Judgment on the Pleadings, (3) **VACATES** the final decision of the Commissioner, (4) **REMANDS** this matter for further proceedings consistent with the PF&R pursuant to the fourth sentence of 42 U.S.C. § 405(g), and (5) **DISMISSES** this matter from the Court's docket.

The Clerk is directed to mail a copy of this Judgment Order to all counsel of record, any unrepresented party, and Magistrate Judge VanDervort.

ENTER: September 8, 2006



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE